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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,416	10/07/2003	Masahiro Katsumura	Q77786	3480

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EXAMINER

VANORE, DAVID A

ART UNIT	PAPER NUMBER
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2881

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,416

Applicant(s)

KATSUMURA ET AL.

Examiner

David A. Vanore

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9, 11 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9, 11 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/31/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. Applicant's arguments, see page 6 of the response, filed October 11, 2005, with respect to the rejection(s) of claim(s) 10, now amended to include claims 7-9, 11, and 17 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bohlen et al. (USPN 4,370,554).
3. The question of whether Items 22-25 are microstructures "on" or attached to a surface of the mask in the Bohlen et al. reference is not clear. It is the opinion of the examiner that it could be argued that items 22-25 are separate structures, as indicated in Fig. 3 for instance, which are then attached to the surface of the mask. However, it is more clearly illustrated that microstructures are attached to the surface of the mask in Fig. 11a and 11b. For the sake of at least clarity, the rejection has been modified to more clearly point out that Bohlen et al. does teach all required limitations. However, this necessitates the withdraw of the previously held final rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2881

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-9, 11 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bohlen et al. (USPN 4,370,554)

Regarding claim 7, Bohlen et al. teaches a beam adjusting sample referred to as a mask (Note Fig. 3 and 6) which is flat like a plate and has at least two adjacent edges orthogonal to each other as view from above. Fig. 3 and 6 is a top down view and clearly shows two adjacent edges. Fig. 11A Items 100A, 100B, 102A, 102B and Fig. 11B Items 113A, 113B, 111, and 112 indicate microstructures mounted on the surface of the

Regarding claim 8, Bohlen et al. teaches the limitations of claim 7 and further teaches that the beam adjusting sample has a through hole penetrating in a thickness direction where apertures 41 in grid 25 extend in a thickness direction as apparent from the top down view of Fig. 3.

Regarding claim 9, as depicted in Fig. 3, two adjacent edges are defined not only by the apertures penetrating the sample, but also at the boundaries of the grid region of the beam adjusting sample of grid 25.

Regarding claim 11, Bohlen et al. teaches all the limitations of claim 10, and further teaches that beam adjusting sample regions 23 and 24 are placed on a silicon wafer 21, the wafer being coated with a metal electrode layer, the electrode layer corresponding to the embodiment where the beam is absorbed and detected at the surface of the beam adjusting sample discussed at Col. 3 Lines 42-53 and Col. 9 Lines 39-62, note further Fig. 11B.

Regarding claim 17, Bohlen et al. teaches all the required limitations of claim 8 as pointed out above, and further teaches that through-holes, or apertures, in the beam adjusting sample are formed at an angle equal to or smaller than 90 degrees relative to the surface of the sample, note the aperture regions 105a illustrated in Fig. 11A.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Vanore whose telephone number is (571) 272-2483. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-2477. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David A Vanore
Patent Examiner
Art Unit 2881

dav


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
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